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Note verbale dated 14 August 2018 from the Permanent Mission of Denmark to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Denmark to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) and has the honour to submit herewith a report on the concrete measures taken by the Government of Denmark to implement the provisions of Security Council resolution 2397 (2017), in accordance with paragraph 17 of that resolution (see annex).

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Annex to the note verbale dated 14 August 2018 from the Permanent Mission of Denmark to the United Nations addressed to the Chair of the Committee

Report of Denmark on the implementation of Security Council resolution 2397 (2017)

Denmark and the other States members of the European Union have jointly implemented the restrictive measures against the Democratic People's Republic of Korea imposed by the Security Council in its resolution 2397 (2017) by taking the following measures:[1]

(a) Council Implementing Decision (CFSP) 2018/16 of 8 January 2018 implementing Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea, which implements the designation of additional persons and one additional entity under the travel ban and/or asset freeze;

(b) Council Implementing Regulation (EU) 2018/12 of 8 January 2018 implementing Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea, which gives effect to the measures set out in Council Implementing Decision (CFSP) 2018/16;

(c) Council Decision (CFSP) 2018/293 of 26 February 2018 amending Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea, which sets out the commitment of the European Union to implementing Security Council resolution 2397 (2017) by imposing the following measures:

(i) The European Union had already introduced a full prohibition on the export of crude oil in Council Decision (CFSP) 2017/1860 of 16 October 2017, with the possibility of exemptions for exports for humanitarian purposes if approved in advance, on a case-by-case basis, by the Committee. In Council Decision (CFSP) 2018/293, it is further specified that the prohibition applies to the direct or indirect supply of all crude oil to the Democratic People's Republic of Korea, whether or not originating in the territories of the member States, including by means of pipelines, rail lines or vehicles;

(ii) The European Union had already introduced a full prohibition on the export of all refined petroleum products in Council Decision (CFSP) 2017/1860, which included a provision that the export of refined petroleum products could be authorized by the competent authority of a member State for humanitarian purposes under the conditions mentioned in paragraph 14 of resolution 2375 (2017). In Council Decision (CFSP) 2018/293, it is now further specified that the amount of refined petroleum products authorized for export cannot exceed 500,000 barrels per year and must be in line with the other conditions set out in paragraph 5 of resolution 2397 (2017);

(iii) Prohibition on importing food and agricultural products, machinery, electrical equipment, earth and stone (including magnesite and magnesia), wood and vessels;

(iv) Prohibition on the acquisition of fishing rights from the Democratic People's Republic of Korea;

(v) Prohibition on exporting all industrial machinery, transportation vehicles, iron, steel and other metals, unless it has been determined by a member State

[1] All common measures are published in the *Official Journal of the European Union*.

that the provision of spare parts is needed to maintain the safe operation of passenger aircraft of the Democratic People's Republic of Korea;

(vi) Obligation to repatriate to the Democratic People's Republic of Korea immediately, and no later than 21 December 2019, all nationals of that country who are earning income in the jurisdiction of a member State and all government safety oversight attachés of the Democratic People's Republic of Korea who are monitoring its workers abroad, unless certain exceptions apply, subject to applicable national and international law;

(vii) Obligation for member States to seize, inspect and impound any vessel in their ports and the power to seize, inspect and impound any vessel subject to their jurisdiction in their territorial waters where there are reasonable grounds to believe that the vessel has been involved in activities, or in the transport of items, prohibited by the Security Council in its various resolutions on the Democratic People's Republic of Korea. Under certain conditions, the provisions for the impounding of vessels shall cease to apply;

(viii) Obligation to cooperate as promptly as possible with another State that has information that leads it to suspect that the Democratic People's Republic of Korea is attempting to export illicit cargo and where that other State requests additional maritime and shipping information;

(ix) Prohibition on providing insurance or reinsurance services to vessels identified as being involved in activities, or in the transport of items, prohibited by the Security Council in its various resolutions on the Democratic People's Republic of Korea, unless the Committee has determined, on a case-by-case basis, that the vessel is engaged in activities only for livelihood or humanitarian purposes;

(x) Obligation to deregister any vessel if there are reasonable grounds to believe that the vessel has been involved in activities, or in the transport of items, prohibited by the Security Council in its various resolutions on the Democratic People's Republic of Korea;

(xi) Prohibition on providing classification services to vessels identified as being involved in activities, or in the transport of items, prohibited by the Security Council in its various resolutions on the Democratic People's Republic of Korea, unless approved in advance by the Committee on a case-by-case basis;

(xii) Prohibition on registering any vessel that has been deregistered by another State unless approved by the Committee in advance on a case-by-case basis;

(xiii) The prohibition on exporting new or used vessels had already been introduced in Council Decision (CFSP) 2017/345;

(xiv) Obligation to seize and dispose of items the export of which is prohibited under resolution 2397 (2017);

(xv) Prohibition on satisfying any claim in connection with any contract or transaction the performance of which has been affected by the measures set out in resolution 2397 (2017);

(d) Council Regulation (EU) 2018/285 of 26 February 2018 amending Council Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea, which gives effect to the measures set out in Council Decision (CFSP) 2018/293.

National implementing measures

The above-mentioned Council Regulations are binding in their entirety and directly applicable in all States members of the European Union. Under Council Regulation (EU) 2017/1509 of 30 August 2017 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Regulation (EC) No. 329/2007, member States are required to determine the penalties applicable to infringements of the provisions of the regulations. The penalties determined by Denmark are set out in the following legislation:

- The Danish Criminal Code, Consolidated Act No. 977 of 9 August 2017, with subsequent amendments. According to section 110 c (2) of the Criminal Code, a fine or imprisonment for a term not exceeding four months, or in particularly aggravated circumstances, imprisonment for a term not exceeding four years, is imposed on any person who fails to comply with provisions or prohibitions stipulated by law with respect to the obligations incumbent on the State as a Member of the United Nations. An equivalent provision exists concerning the contravention of European Union sanctions (sect. 110 c (3)). Where the contravention is committed through negligence, the penalty is a fine or imprisonment for a term not exceeding two years (sect. 110 c (4)).

- The Danish Anti-Money Laundering Act No. 651 of 2017, with subsequent amendments. According to section 79, an undertaking or person is punishable by fine in the event of failure to comply with an order (cf. sect. 51 of the Act) relating to violations of the European Union regulations containing rules on financial sanctions against countries, persons, groups and legal entities or bodies.

The responsibility for the implementation and enforcement of restrictive measures imposed by the European Union is divided among the relevant national authorities in Denmark.

The competent Danish authorities apply the following national legislation in implementing the restrictive measures against the Democratic People's Republic of Korea concerning arms and related material:

- In accordance with section 7 a (1) and (4) of the Danish Weapons Act No. 1005 of 2012, with subsequent amendments, a government executive order has been issued on the transportation of weapons and related material between countries other than Denmark, establishing a prohibition on the transport of weapons or related material to and from specific countries. According to section 1 (1) of the executive order, it is prohibited to transport weapons of any kind or defence-related material between countries other than Denmark when the recipient country is listed in the executive order. That list includes all countries that are under an arms embargo of the United Nations, the European Union or the Organization for Security and Cooperation in Europe. According to section 1 (2) of the executive order, it is prohibited to transport weapons of any kind and defence-related material between countries other than Denmark when the exporting country is listed in the executive order. That list includes all countries that are under an arms embargo of the United Nations, the European Union or the Organization for Security and Cooperation in Europe that specifically prohibits, for example, the transport of weapons from that country.

- According to section 7 b (1) of the Danish Weapons Act, it is likewise prohibited for a broker, without a specific licence from the Ministry of Justice, to negotiate or arrange transactions that involve the transfer of weapons or related material, as defined in section 6 of the Act, between countries outside the European Union. Furthermore, it is prohibited to buy or sell weapons or related material,

as defined in section 6 of the Act, as part of a transfer between countries outside the European Union, or, as the owner of the weapons or related material, to arrange such a transfer. According to section 7 b (2), the prohibition does not apply to acts performed in another State member of the European Union or to acts performed outside the European Union by persons with permanent residence outside Denmark.

- According to section 6 of the Act, it is prohibited to export weapons of any kind or defence-related material without a specific licence. Section 6 applies to any situation in which items are transferred from Denmark to a third country, regardless of whether the transfer is carried out in relation to export, transit, trans-shipment or re-export. Export licences will not be issued to countries in violation of Security Council resolution 1718 (2006), 1874 (2009) or 2270 (2016).

- Violations of the above-mentioned rules are criminal offences punishable by fine or imprisonment (see section 10 of the Danish Weapons Act and, with respect to aggravated circumstances, section 192 (a) of the Danish Criminal Code).

- The export — and in certain cases the transit and brokering — of dual-use goods, software and technology requires a licence from the Danish Business Authority, as provided for in the European Union export control regime governed by Council Regulation (EC) No. 428/2009, as amended. The issuance of an export licence can be denied, inter alia, on the grounds of international obligations that are binding on Denmark. Council Regulation (EC) No. 428/2009 is supplemented by national provisions on penalties, for example in Consolidated Act No. 635 of 9 June 2011 on the application of certain legislative acts of the European Union on economic relations with third countries. Violations or attempted violations of regulatory provisions contained in the Act are criminal offences punishable by fine or imprisonment, as provided for in section 2 of the Act, and, with respect to aggravated circumstances, section 114 (h) of the Danish Criminal Code.

Furthermore, by Act No. 1546 of 19 December 2017, the competent Danish authorities have revised the Danish Merchant Shipping Act No. 75 of 2014, with subsequent amendments, in order to fully implement the restrictive measures against the Democratic People's Republic of Korea imposed by the Security Council in it resolutions concerning the registration and deregistration of vessels.

With regard to restrictions on admission (visa ban) and repatriation, Denmark has enacted the following national legislation, which, together with Council Decision (CFSP) 2016/849 and Regulation (EC) No. 539/2001, provides the basis for refusal of admission, denial of visa requests and repatriation:

- The Danish Aliens Act No. 1117 of 2017, with subsequent amendments, under which the competent Danish authorities have the power to impose entry and transit restrictions on persons designated by the Committee. The necessary instructions are issued immediately after the designation of such persons.

- Similarly, the competent Danish authorities have the power to repatriate persons subject to such restrictive measures.

- The individuals listed in pursuance of Council Decision (CFSP) 2016/849 have been registered in the Schengen Information System, which ensures that any request by those individuals for a Schengen visa will be denied.